

104TH CONGRESS } 2d Session }	HOUSE OF REPRESENTATIVES {	REPORT 104-810
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## FOR THE RELIEF OF OSCAR SALAS-VELAZQUEZ

SEPTEMBER 20, 1996.—Committed to the Committee of the Whole House and  
ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,  
submitted the following

## R E P O R T

[To accompany H.R. 1031]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1031) for the relief of Oscar Salas-Velazquez, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

### SECTION 1. WAIVER OF GROUNDS FOR DISAPPROVAL OF REQUESTS FOR CLASSIFICATION AND ADJUSTMENT OF STATUS.

(a) IN GENERAL.—Notwithstanding section 204(c) of the Immigration and Nationality Act, the Attorney General may not disapprove a petition for classification of Oscar Salas-Velazquez under section 201(b)(2)(A)(i) of such Act, or an application for adjustment of the status of Oscar Salas-Velazquez under section 245 of such Act, on any ground relating to a determination that the marriage of Oscar Salas-Velazquez and Jennifer Christine Brady was entered into for the purpose of evading the immigration laws.

(b) WAIVER OF INADMISSIBILITY.—Notwithstanding subparagraphs (A), (B), and (C) of section 212(a)(6) of the Immigration and Nationality Act, Oscar Salas-Velazquez may not be considered to be within a class of excludable aliens at any time on or after the date of the enactment of this Act on any ground relating to—

(1) a determination that the marriage of Oscar Salas-Velazquez and Jennifer Christine Brady was entered into for the purpose of evading the immigration laws; or

(2) the deportation of Oscar Salas-Velazquez on February 9, 1995.

(c) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Oscar Salas-Velazquez shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Oscar Salas-Velazquez, the Secretary of State shall

instruct the proper officer to reduce by 1, for the current or next following fiscal year, the worldwide level of family-sponsored immigrants under section 201(c)(1)(A) of the Immigration and Nationality Act.

#### PURPOSE

H.R. 1031 would provide the required waiver necessary to allow Mr. Oscar Salas-Velazquez to adjust his status to that of a permanent resident.

#### BACKGROUND

Mr. Oscar Salas-Velazquez is a 34-year-old Mexican national. In 1984, at 22 years of age, Mr. Salas-Velazquez entered the United States on a B-2 visitor visa. In 1986, in a mutual understanding, he married Jennifer Brady to obtain legal immigration status. In 1989, both parties admitted at an Immigration and Naturalization Service (INS) interview that they married so Mr. Salas-Velazquez could obtain legal immigration status. At that interview, INS initially held Mr. Salas-Velazquez, and then told him to go home. Shortly thereafter, Mr. Salas-Velazquez met his current wife, Shari Libby, an American citizen. Subsequently he divorced Jennifer Brady. In 1990, after consulting counsel who assured Mr. Salas-Velazquez there would be no problem with INS, he married his current wife and they now have two children, ages 5 and 3. The attorney indicated that Mr. Salas-Velazquez could qualify for a waiver and subsequent citizenship. Later, on the advice of counsel, Mr. and Mrs. Salas-Velazquez went to the INS, explained the situation, and filed for citizenship based upon their legitimate marriage. Finally at that point, INS began actively pursuing the deportation of Mr. Salas-Velazquez. In January 1995, Mr. Salas-Velazquez was deported based on the prior admitted fraudulent marriage.

During the time period when INS was actively pursuing the deportation of Mr. Salas-Velazquez, it was found that Mrs. Salas-Velazquez and possibly one of their children are carriers of the HLA-27 antigen, which predisposes them to developing Reiter's syndrome. Reiter's syndrome is triggered in these carriers by intestinal infection by certain organisms which are widespread in the food and water supplies of Mexico. Reiter's syndrome is a severe disabling arthritic disease with no cure. In fact, Mrs. Salas-Velazquez's sister, who also carries the HLA-27 antigen, developed Reiter's syndrome immediately following a trip to Mexico. This medical information has been confirmed by Dr. Elizabeth Brackett, the family's doctor, as well as Dr. Juan Carlos Manivel, Associate Professor of Laboratory Medicine and Pathology and Assistant Director of Anatomic Pathology at the University of Minnesota's Department of Pathology.

There is a genuine health risk for Mrs. Salas-Velazquez and possibly one of their children should they join or even visit Mr. Salas-Velazquez in Mexico, as well as the financial and emotional hardship normally suffered in these cases.

It is not the Committee's intent in any way that this legislation serve as a precedent for other private legislation to waive the exclusion standard for marriage fraud. Rather, this legislation acknowledges the previously set precedent in private legislation that separation due to medical circumstances is viewed by the Congress

as satisfying the standard of extreme hardship to an American citizen. Because of almost certain development of Reiter's syndrome, Mrs. Salas-Velazquez, and possibly one of her children, cannot even visit Mexico to maintain a familial relationship.

An amendment was adopted by the Committee prohibiting Mr. Salas-Velazquez from petitioning for any of his family from Mexico to naturalize as well as reducing the worldwide level of family-sponsored immigrants by one (1) upon the granting of permanent residence to Mr. Salas-Velazquez.

#### COMMITTEE ACTION

On May 23, 1996, the Subcommittee on Immigration and Claims favorably reported the bill H.R. 1031, as amended by voice vote, to the Judiciary Committee.

On September 11, 1996, the Committee on the Judiciary ordered reported favorably H.R. 1031 with an amendment by voice vote, a quorum being present.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1031, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 18, 1996.*

Hon. HENRY J. HYDE,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1031, a bill for the relief of Oscar Salas-Velazquez, as ordered reported by the House Committee on the Judiciary on September 11, 1996. The bill would prohibit the Attorney General from

denying the petition of Mr. Salas-Velazquez for a change of immigration status based on a determination that his previous marriage was fraudulent. CBO estimates that enacting H.R. 1031 would result in no significant cost to the federal government.

H.R. 1031 would impose no private-sector or intergovernmental mandates as defined by the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), and CBO estimates that its enactment would not impose significant costs on the budgets of state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JUNE E. O'NEILL, *Director*.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 1031 will have no significant inflationary impact on prices and costs in the national economy.

AGENCY VIEWS

The comments of the Immigration and Naturalization Service are as follows:

U.S. DEPARTMENT OF JUSTICE,  
IMMIGRATION AND NATURALIZATION SERVICE,  
*Washington, DC, September 10, 1996.*

Hon. HENRY HYDE,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to H.R. 1031, for the relief of Oscar Salas-Velazquez, there is attached a memorandum of information.

The bill would direct the removal of the bar to the approval of the visa petition filed on behalf of the beneficiary by his United States citizen spouse. The bar is otherwise mandatory pursuant to section 204(c) of the Immigration and Nationality Act whenever there is substantial and probative evidence in the record that the alien spouse has participated in a prior fraudulent marriage for immigration purposes. The bill further waives the provision of the Immigration and Nationality Act which excludes from admission to the United States an alien who procures or attempts to procure a visa or other documentation by fraud, or who willfully misrepresents a material fact.

Absent enactment of the bill, the beneficiary appears to be ineligible for permanent residence.

Sincerely,

FOR THE COMMISSIONER,  
PAMELA BARRY,  
*Executive Director, Congressional and Intergovernmental Relations.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND  
NATURALIZATION SERVICE FILES RE: H.R. 1031

The beneficiary, Oscar Salas-Velazquez, is a native and citizen of Mexico who was born on August 6, 1961. Information additional to that contained in Immigration and Naturalization Service files was provided in interviews with Sharron Salas-Velazquez, nee Libby, spouse of the beneficiary and Jim Libby, the beneficiary's father-in-law.

The beneficiary resides in Mexico, exact address unknown. He earns \$110 a month as an assistant at an audio-visual company. Mr. Salas studied automobile mechanics for four years in the United States, but he did not graduate from the course of study.

Mr. Salas has six sisters and one brother, all natives and citizens of Mexico and all reside in Mexico. His parents, who were Mexican citizens are deceased. On April 20, 1990, he married Sharron Libby, who was born on June 2, 1967 in the United States. Mrs. Salas resides in Plymouth, Minnesota, with their two minor United States citizen children. She is employed as a sales representative and earns approximately \$18,000 per year.

The beneficiary originally entered the United States on November 20, 1984 as a visitor. On October 1, 1986, he married Ms. Jennifer Christine Brady, a United States citizen, and become a conditional resident in 1987 as a result of that marriage. In 1989 the marriage was deemed to be fraudulent, having been entered into to circumvent provisions of the Immigration and Nationality Act. Subsequently, the beneficiary's conditional resident status was revoked. Mr. Salas divorced Ms. Brady on April 10, 1990.

The beneficiary was placed into deportation proceedings in May 1991. He asked the immigration judge for three forms of relief to prevent his deportation: an adjustment of status to permanent residence, based on his second marriage to a United States citizen; a waiver of excludability; and suspension of deportation. On February 11, 1991, the immigration judge found him deportable and ineligible for all forms of relief. That decision was appealed to the Board of Immigration Appeals (BIA) and was reviewed by the Eighth Circuit Court of Appeals. Both forums upheld the decision of the immigration judge.

On February 6, 1992, Mrs. Salas filed an immediate relative petition for the beneficiary on the basis of their marriage. The district director denied that petition pursuant to section 204(c) of the Immigration and Nationality Act which bars the approval of a petition when the beneficiary was found to have participated in a prior fraudulent marriage for immigration purposes. Mrs. Salas appealed the denial of her immediate relative petition to the BIA. The denial of that petition by the district director was upheld by the BIA.

The beneficiary presented himself voluntarily and was deported from the United States on February 9, 1995, after the INS had granted him a stay of deportation and the federal court denied his request for injunctive relief and refused to bar his deportation from the United States based on the entire record.